

## SUPPLEMENTAL DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

1. My residence, post office address and citizenship are as stated below next to my name. I believe I am an original, first and joint inventor of the subject matter that is claimed and for which a patent is sought on the invention titled:

### METHODS AND DEVICES FOR PREDICTION OF HYPOGLYCEMIC EVENTS

2. The specification of which (check one)

\_\_\_\_\_ is attached hereto; or

X was filed on August 10, 2001 as Application Serial No. 09/927,773 and was amended on 3 December 2003, 17 May 2004, 19 July 2004, 14 September 2004 (Examiner's Amendment via teleconference, mailed with Notice of Allowance on 22 September 2004), and 30 September 2004.

3. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

4. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56(a).

5. I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

#### Prior Foreign Application(s)

Number	Country	Day/Month/Year Filed	Priority claimed
NONE			

6. I hereby claim priority benefits under Title 35, United States Code § 119(e)(1) of any United States provisional application(s) for patent as indicated below and have also identified below any application for patent on this invention having a filing date before that of the application for patent on which priority is claimed:

<u>Application No.</u>	<u>Date of Filing</u> <u>(day/month/year)</u>	<u>Priority</u> <u>Claimed</u>
60/226,431	18 August 2000	Yes

7. I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>Application No.</u>	<u>Date of Filing</u> <u>(day/month/year)</u>	<u>Priority</u> <u>Claimed</u>	<u>Status</u>
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NONE

8. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or by imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful false statements may jeopardize the validity of the subject patent application or any patent issuing therefrom.

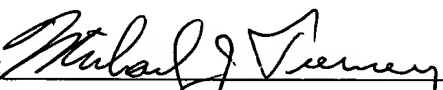
Signature:  Date: 1/13/05

Full Name of Inventor: Russell O. POTTS

Citizenship: US

Residence: San Francisco, California

Post Office Address: 84 Eagle Street, San Francisco, California 94114

Signature:  Date: 1/12/05

Full Name of Inventor: Michael J. TIERNEY

Citizenship: US

Residence: San Jose, California

Post Office Address: 368 North Sixth Street, San Jose, CA 95112



Atty Dkt No. 0240.02  
USSN: 09/927,773  
PATENT

**CERTIFICATE OF FIRST CLASS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service under 37 CFR §1.8 on the date indicated below and with sufficient postage addressed to Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Gary R. Fabian

Printed Name

*Gary R. Fabian*

Signature

*13 Jan 2005*

Date of Deposit

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of: Potts, R. O., et al.	Confirmation No.: 6897
Serial No.: 09/927,773	Art Unit: 1631
Filing Date: 10 August 2001	Examiner: M.A. Moran
Title: METHODS AND DEVICES FOR PREDICTION OF HYPOGLYCEMIC EVENTS	

**Communication Regarding Supplemental Declaration**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper accompanies a Supplemental Declaration.

No additional charges are believed due for this paper; however, the Commissioner is hereby authorized to charge to Deposit Account No. 03-4058 any fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 which may be required by this paper. Applicants respectfully request entry of this paper and the accompanying Supplemental Declaration.

### Remarks

Upon review of the above-referenced, allowed application, the undersigned noticed that the date given for the priority document (U.S. Provisional Patent Application No. 60/226,431) was incorrect in the original, signed Declaration -- the date given in the original Declaration is 18 August 2001 whereas the correct date is 18 August 2000.

The correct date for the priority document (U.S. Provisional Patent Application No. 60/226,431) was provided in the Transmittal Letter for the above-referenced patent application (copy enclosed, Appendix A), as well as on the title page of the above-referenced application as originally filed (copy enclosed, Appendix B). Further, the correct date is listed on the application filing receipt for the above-referenced application (copy enclosed, Appendix C).

Applicants are submitting herewith an executed Supplemental Declaration, which accompanies this paper, wherein the correct date for the priority document (18 August 2000 for U.S. Provisional Patent Application No. 60/226,431) is provided.

### Conclusion

Please direct all further communications in this application to:

Barbara G. McClung, Esq.  
CYGNUS, INC.  
Intellectual Property Department  
400 Penobscot Drive  
Redwood City, CA 94063  
Telephone: 650-599-2527  
Facsimile: 650-599-3913.

Respectfully submitted,

Date: 13 Jan 2005

By: Gary R. Fabian  
Gary R. Fabian, Ph.D.  
Registration No. 33,875  
Agent for Applicants



Atty Dkt No. 2750-0240  
Client No. 0240.02

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COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: METHODS AND DEVICES FOR PREDICTION OF HYPOGLYCEMIC EVENTS the specification of which

\_\_\_ is attached hereto  
X was filed on August 10, 2001

and assigned Serial No. \_\_\_ and was amended on \_\_\_

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated

through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

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(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office,

or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than six months prior to this application.

I hereby claim priority benefits under Title 35, United States Code § 119(e)(1) of any United States provisional application(s) for patent as indicated below and have also identified below any application for patent on this invention having a filing date before that of the application for patent on which priority is claimed:

<u>Application No.</u>	<u>Date of Filing</u> <u>(day/month/year)</u>	<u>Priority</u> <u>Claimed</u>
60/226,431	August 18, 2000	Yes <u>X</u> No <u>  </u>

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I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Barbara G. McClung, Reg. No. 33,113  
Roberta L. Robins, Reg. No. 33,208  
Dahna S. Pasternak, Reg. No. 41,411  
Gary R. Fabian, Ph.D., Reg. No. 33,875

Address all correspondence to: Barbara G. McClung at

CYGNUS, INC.  
Intellectual Property Dept.  
400 Penobscot Drive  
Redwood City, CA 94063

Address all telephone calls to: Barbara G. McClung at (650) 369-4300.

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature: \_\_\_\_\_

Date \_\_\_\_\_

Full Name of Inventor: Russell O. POTTS

Citizenship: U.S.

Residence: San Francisco, California

Post Office Address: 76 Uranus Terrace, San Francisco, California 94114

Signature: \_\_\_\_\_

Date \_\_\_\_\_

Full Name of Inventor: Michael J. TIERNEY

Citizenship: U.S.

Residence: San Jose, California

Post Office Address: 368 North Sixth Street, San Jose, California 95112